

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/024,261	BANIK ET AL.	
	Examiner	Art Unit	
	Victor X Nguyen	3731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/21/2004.
  2. ☒ The allowed claim(s) is/are 1-8,10,12-15 and 17-23.
  3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
  4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>02/2002</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                              | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

Applicant's election of Group I, Species I, claims 1-8,10,12-15 and 17-23 in the reply filed on 7/21/2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). **Accordingly, claims 9, 11, 16, 24 and 25-30 have been cancelled.**

### REASONS FOR ALLOWANCE

The prior art does not teach or fairly suggest the invention as recited in claims 1-8,10,12-15 and 17-23 of the instant invention including, inter alia, a stenting system for delivering therapeutic agents to body sites comprises an outer membrane surrounding the tubular stent, where a portion of the outer membrane is porous to the agent to allow the agent to be deposited on the site, where an inner membrane attached to the tubular stent, where **the inner membrane is non-porous to the therapeutic agent to be delivered to the site**, and where a chamber located between the inner and outer membranes for holding the agent, where agent in the chamber diffuses through the porous portion of the outer membrane and onto the body site. The art is well aware of the tubular stent has microporous vascular graft, such as Tu, US. Pat No. 5,024,671; Kowalewski, US. Pat No. 4,649,914. The most relevant prior art reference, Herweck

Art Unit: 3731

et al., US. Pat No. 5,411,550, discloses in figures 1a, 1b, where a stenting system for delivering therapeutic agents to body sites comprises an outer membrane surrounding the tubular stent, where a portion of the outer membrane is porous to the agent to allow the agent to be deposited on the site, where an inner membrane attached to the tubular stent. However, the inner membrane of Herweck et al does not disclose a non-porous to the therapeutic agent to be delivered to the site. Accordingly, claims 1-8,10,12-15 and 17-23 of the instant invention are allowable over the prior art.

3. The application has been allowed and formal drawings are required in response to this Office Action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898. The examiner can normally be reached on M-F (8-4.30 P.M).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Victor X Nguyen  
Examiner  
Art Unit 3731

Vn *VN*  
10/21/2004

*Julian W. Woo*

**JULIAN W. WOO  
PRIMARY EXAMINER**